
By: **Delegate Bohanan**

Introduced and read first time: March 5, 2001

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Land Use - Transit-Oriented Development District**

3 FOR the purpose of requiring a comprehensive plan to include transit-oriented
4 development as a transit plan element; requiring certain transit plan elements
5 that encourage certain ridership, reduce certain traffic, and designate certain
6 transit stations and development within certain districts; authorizing a local
7 jurisdiction to prepare, adopt, amend, and repeal certain plans; authorizing a
8 local jurisdiction to include appropriate supporting elements, documents, and
9 maps in certain plans under certain circumstances; requiring a local jurisdiction
10 to demonstrate how certain processes, codes, and ordinances may foster or
11 inhibit development; requiring the Maryland Department of Transportation and
12 a local jurisdiction to review certain plans and programs for transit service for
13 certain purposes; authorizing a local jurisdiction to use certain assistance that is
14 provided by the Department; defining a certain term; and generally relating to
15 transit-oriented development districts.

16 BY repealing and reenacting, with amendments,
17 Article 66B - Land Use
18 Section 1.00, 1.02, 1.03, 2.13, and 3.05
19 Annotated Code of Maryland
20 (1998 Replacement Volume and 2000 Supplement)

21 BY adding to
22 Article 66B - Land Use
23 Section 10.02
24 Annotated Code of Maryland
25 (1998 Replacement Volume and 2000 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

1 **Article 66B - Land Use**

2 1.00.

3 (a) In this article the following words have the meanings indicated, except
4 where the context clearly indicates otherwise.

5 (b) "Adaptive reuse" means a change granted by a local legislative body, under
6 § 4.05 of this article, to the use restrictions in a zoning classification, as those
7 restrictions are applied to a particular improved property.

8 (c) "Development" means any activity, other than normal agricultural activity,
9 which materially affects the existing condition or use of any land or structure.

10 (d) "Development rights and responsibilities agreement" means an agreement
11 made between a governmental body of a jurisdiction and a person having a legal or
12 equitable interest in real property for the purpose of establishing conditions under
13 which development may proceed for a specified time.

14 (e) (1) "Local executive" means the chief executive of a political subdivision.

15 (2) "Local executive" includes:

16 (i) A county executive;

17 (ii) A board of county commissioners;

18 (iii) An executive head; or

19 (iv) A mayor.

20 (f) (1) "Local legislative body" means the elected body of a political
21 subdivision.

22 (2) "Local legislative body" includes:

23 (i) A board of county commissioners;

24 (ii) A county council; or

25 (iii) A governing body of a municipal corporation.

26 (g) "Local jurisdiction" means a county or municipal corporation and the
27 territory within which its powers may be exercised.

28 (h) (1) "Plan" means the policies, statements, goals, and interrelated plans
29 for private and public land use, transportation, and community facilities documented
30 in texts and maps which constitute the guide for the area's future development.

31 (2) "Plan" includes a general plan, master plan, comprehensive plan, or
32 community plan adopted in accordance with §§ 3.01 through 3.09 of this article.

1 (i) "Regulation" means any rule of general applicability and future effect,
2 including any map or plan.

3 (j) "Sensitive areas" includes:

4 (1) Streams and their buffers;

5 (2) 100-year flood plains;

6 (3) Habitats of threatened and endangered species;

7 (4) Steep slopes; and

8 (5) Other areas in need of special protection, as determined in the plan.

9 (k) "Special exception" means a grant of a specific use that would not be
10 appropriate generally or without restriction and shall be based upon a finding that
11 certain conditions governing special exceptions as detailed in the zoning ordinance
12 exist, that the use conforms to the plan and is compatible with the existing
13 neighborhood.

14 (l) (1) "Subdivision" means the division of a lot, tract, or parcel of land into
15 two or more lots, plats, sites, or other divisions of land for the immediate or future
16 purposes of selling the land or of building development.

17 (2) (i) "Subdivision" includes resubdivision.

18 (ii) As appropriate to the context, "subdivision" may include either
19 the process of resubdividing or the land or territory resubdivided.

20 (m) (1) "TRANSIT-ORIENTED DEVELOPMENT" MEANS A PLACE OF
21 RELATIVELY HIGHER DENSITY, THE DESIGN OF WHICH GIVES PREFERENCE TO THE
22 PEDESTRIAN AND BICYCLIST, AND MAY BE ACCESSED BY AUTOMOBILE.

23 (2) "TRANSIT-ORIENTED DEVELOPMENT" INCLUDES A MIXTURE OF
24 RESIDENTIAL, EMPLOYMENT, SHOPPING AREAS, AND CIVIC USES AND TYPES, SUCH
25 AS LIBRARIES, POST OFFICES, AND SCHOOLS, LOCATED WITHIN WALKING DISTANCE
26 OF A BUS OR RAIL TRANSIT CENTER.

27 (N) "Variance" means a modification only of density, bulk, or area
28 requirements in the zoning ordinance that is:

29 (1) Not contrary to the public interest; and

30 (2) Specified by the local governing body in a zoning ordinance to avoid a
31 literal enforcement of the ordinance that, because of conditions peculiar to the
32 property and not any action taken by the applicant, would result in unnecessary
33 hardship or practical difficulty.

1 1.02.

2 (a) Except as provided in this section, this article does not apply to charter
3 counties.

4 (b) The following sections of this article apply to a charter county:

5 (1) § 1.00(j) (Definition of "sensitive areas");

6 (2) § 1.01 (Visions);

7 (3) § 1.03 (Charter county - Comprehensive plans);

8 (4) § 4.01(b)(2) (Regulation of bicycle parking);

9 (5) § 5.03(d) (Easements for burial sites);

10 (6) § 7.02 (Civil penalty for zoning violation);

11 (7) § 10.01 (Adequate Public Facilities Ordinances);

12 (8) § 10.02 (TRANSIT-ORIENTED DEVELOPMENT DISTRICTS);

13 (9) § 11.01 (Transfer of Development Rights);

14 [(9)] (10) § 12.01 (Inclusionary Zoning);

15 [(10)] (11) Except in Montgomery County or Prince George's County, §
16 13.01 (Development Rights and Responsibilities Agreements); and

17 [(11)] (12) For Baltimore County only, § 14.02.

18 (c) This section supersedes any inconsistent provision of Article 28 of the
19 Code.

20 1.03.

21 (a) (1) When developing a comprehensive plan for a charter county, a
22 planning commission shall include:

23 (i) A LAND USE PLAN ELEMENT, WHICH:

24 1. SHALL PROPOSE THE MOST APPROPRIATE AND
25 DESIRABLE PATTERNS FOR THE GENERAL LOCATION, CHARACTER, EXTENT, AND
26 INTERRELATIONSHIP OF THE USES OF PUBLIC AND PRIVATE LAND, ON A SCHEDULE
27 THAT EXTENDS AS FAR INTO THE FUTURE AS IS REASONABLE; AND

28 2. MAY INCLUDE PUBLIC AND PRIVATE, RESIDENTIAL,
29 COMMERCIAL, INDUSTRIAL, AGRICULTURAL, AND RECREATIONAL LAND USES;

30 (II) A transportation plan element which shall:

1 1. Propose the most appropriate and desirable patterns for
2 the general location, character, and extent of the LAND USES UNDER PARAGRAPH (1)
3 (I) OF THIS SUBSECTION, TRANSIT-ORIENTED DEVELOPMENT, channels, routes, and
4 terminals for transportation facilities, and for the circulation of persons and goods on
5 a schedule that extends as far into the future as is reasonable;

6 2. Provide for bicycle and pedestrian access and travelways;
7 and

8 3. Include an estimate of the probable utilization of any
9 proposed improvement;

10 4. ENCOURAGE TRANSIT RIDERSHIP TO REDUCE VEHICLE
11 TRAFFIC ON THE HIGHWAYS; AND

12 5. DESIGNATE TRANSIT-ORIENTED DEVELOPMENT
13 DISTRICTS AND DIRECT NEW DEVELOPMENT TO THESE DISTRICTS, CLOSE TO THE
14 TRANSIT STATIONS WITHIN THESE DISTRICTS, UNDER § 10.02 OF THIS ARTICLE;

15 (ii) (III) A COMMUNITY FACILITIES PLAN ELEMENT, WHICH:

16 1. SHALL PROPOSE THE MOST APPROPRIATE AND
17 DESIRABLE PATTERNS FOR THE GENERAL LOCATION, CHARACTER, AND EXTENT OF
18 PUBLIC AND SEMIPUBLIC BUILDINGS, LAND, AND FACILITIES ON A SCHEDULE THAT
19 EXTENDS AS FAR INTO THE FUTURE AS IS REASONABLE; AND

20 2. MAY INCLUDE PARKS AND RECREATION AREAS, SCHOOLS
21 AND OTHER EDUCATIONAL AND CULTURAL FACILITIES, LIBRARIES, CHURCHES,
22 HOSPITALS, SOCIAL WELFARE AND MEDICAL FACILITIES, INSTITUTIONS, FIRE
23 STATIONS, POLICE STATIONS, JAILS, OR OTHER PUBLIC OFFICE OR ADMINISTRATIVE
24 FACILITIES;

25 (IV) If current geological information is available, a mineral
26 resources plan element that:

27 1. Identifies undeveloped land that should be kept in its
28 undeveloped state until the land can be used to provide or assist in providing a
29 continuous supply of minerals, as defined in § 15-801(i) of the Environment Article;

30 2. Identifies appropriate postexcavation uses for the land
31 that are consistent with the county's land planning process;

32 3. Incorporates land use policies and recommendations for
33 regulations:

34 A. To balance mineral resource extraction with other land
35 uses; and

36 B. To the extent feasible, to prevent the preemption of
37 mineral resources extraction by other uses; and

1 2.13.

2 (a) Except as provided in subsection (b) of this section, §§ 3.01 through 8.15 of
3 this article do not apply in Baltimore City.

4 (b) The following sections of this article apply to Baltimore City:

5 (1) § 1.00(j) (Definition of "sensitive areas");

6 (2) § 1.01 (Visions);

7 (3) § 1.03 (Charter county - Comprehensive plans);

8 (4) § 4.01(b)(2) (Regulation of bicycle parking);

9 (5) § 5.03(d) (Easements for burial sites);

10 (6) § 7.02 (Civil penalty for zoning violation);

11 (7) § 10.01 (Adequate Public Facilities Ordinances);

12 (8) § 10.02 (TRANSIT-ORIENTED DEVELOPMENT DISTRICTS);

13 (9) § 11.01 (Transfer of Development Rights);

14 [(9)] (10) § 12.01 (Inclusionary Zoning); and

15 [(10)] (11) § 13.01 (Development Rights and Responsibilities
16 Agreements).

17 3.05.

18 (a) (1) A planning commission shall make and approve a plan which the
19 commission shall recommend to the local legislative body for adoption.

20 (2) The plan shall:

21 (i) Serve as a guide to public and private actions and decisions to
22 insure the development of public and private property in appropriate relationships;
23 and

24 (ii) Include any areas outside of the boundaries of the plan which,
25 in the planning commission's judgment, bear relation to the planning responsibilities
26 of the commission.

27 (3) (i) The elements of the plan may be expressed in words, graphics,
28 or any other appropriate form.

29 (ii) 1. The elements of the plan shall be interrelated.

1 medical facilities, institutions, fire stations, police stations, jails, or other public office
2 or administrative facilities;

3 (v) If current geological information is available, a mineral
4 resources plan element that:

5 1. Identifies undeveloped land that should be kept in its
6 undeveloped state until the land can be used to provide or assist in providing a
7 continuous supply of minerals, as defined in § 15-801(i) of the Environment Article;

8 2. Identifies appropriate post-excavation uses for the land
9 that are consistent with the county's land planning process;

10 3. Incorporates land use policies and recommendations for
11 regulations:

12 A. To balance mineral resource extraction with other land
13 uses; and

14 B. To the extent feasible, to prevent the preemption of
15 mineral resources extraction by other uses; and

16 4. Has been reviewed by the Department of the Environment
17 to determine whether the proposed plan is consistent with the programs and goals of
18 the Department;

19 (vi) An element which shall contain the planning commission's
20 recommendation for land development regulations to implement the plan and which
21 encourages the following:

22 1. Streamlined review of applications for development,
23 including permit review and subdivision plat review within the areas designated for
24 growth in the plan;

25 2. The use of flexible development regulations to promote
26 innovative and cost-saving site design and protect the environment; and

27 3. Economic development in areas designated for growth in
28 the plan through the use of innovative techniques;

29 (vii) Recommendations for the determination, identification, and
30 designation of areas within the county that are of critical State concern; and

31 (viii) A sensitive area element that contains goals, objectives,
32 principles, policies, and standards designed to protect sensitive areas from the
33 adverse effects of development.

34 (5) (i) The transportation element may include all types of highways
35 and streets, bicycle ways, sidewalks, railways, waterways, airways, routings for mass

1 transit, and terminals for people, goods, and vehicles related to highways, airways,
2 waterways, and railways.

3 (ii) The mineral resources plan element shall be incorporated in:

4 1. Any new plan adopted after July 1, 1986 for all or any part
5 of a local jurisdiction; and

6 2. Any amendment or addition that is adopted after July 1,
7 1986 to a plan that was in effect on July 1, 1985.

8 (6) (i) The plan may include any additional elements which, in the
9 judgment of the planning commission, will further advance the purposes of the plan.

10 (ii) The additional plan elements may include:

11 1. Community renewal elements;

12 2. Housing elements;

13 3. Flood control elements;

14 4. Pollution control elements;

15 5. Conservation elements;

16 6. Natural resources elements; [and]

17 7. The general location and extent of public utilities; AND

18 8. TRANSIT-ORIENTED DEVELOPMENT DISTRICT PLAN
19 ELEMENTS.

20 (7) (i) Each planning commission of a county that is located on the
21 tidal waters of the State and that exercises authority under this article shall include
22 in its plan the designation of areas on the tidal water or in close proximity to the tidal
23 water for the following purposes:

24 1. Loading and unloading finfish and shellfish;

25 2. Processing finfish and shellfish; and

26 3. Docking and mooring commercial fishing boats and
27 vessels.

28 (ii) The designated areas under subparagraph (i) of this paragraph
29 shall be geographically located to:

30 1. Facilitate the commercial harvesting of finfish and
31 shellfish; and

- 1 (vii) The promotion of good civic design and arrangement;
- 2 (viii) The wise and efficient expenditure of public funds;
- 3 (ix) Adequate public utilities; and
- 4 (x) An adequate supply of other public requirements.

5 (d) (1) The Commission shall have power to promote public interest in and
6 understanding of the plan.

7 (2) The Commission shall:

8 (i) Periodically recommend to the appropriate public officials
9 programs for:

10 1. Public structures, improvements, and land acquisitions;

11 and

12 2. The financing of public structures, improvements, and
13 land acquisitions; and

14 (ii) Consult with public officials and agencies, public utility
15 companies, civic, educational, professional, and other organizations, and citizens
16 about protecting or executing the plan.

17 10.02.

18 (A) A LOCAL JURISDICTION MAY PREPARE, ADOPT, AMEND, OR REPEAL A
19 TRANSIT-ORIENTED DEVELOPMENT DISTRICT PLAN CONSISTENT WITH THE
20 TRANSPORTATION ELEMENT UNDER § 1.03 OR § 3.05 OF THIS ARTICLE.

21 (B) IF A TRANSIT-ORIENTED DEVELOPMENT DISTRICT PLAN IS PREPARED,
22 THE TRANSIT-ORIENTED DEVELOPMENT DISTRICT PLAN SHALL BE:

23 (1) PREPARED, ADOPTED, AND AMENDED IN THE SAME MANNER AS A
24 COMPREHENSIVE PLAN UNDER § 3.07 OF THIS ARTICLE; OR

25 (2) REPEALED IN THE SAME MANNER AS THE TRANSIT-ORIENTED
26 DEVELOPMENT DISTRICT PLAN IS AMENDED UNDER SUBPARAGRAPH (1) OF THIS
27 PARAGRAPH.

28 (C) A TRANSIT-ORIENTED DEVELOPMENT DISTRICT PLAN MAY NOT BE
29 ADOPTED OR AMENDED UNLESS THE TRANSIT-ORIENTED DEVELOPMENT DISTRICT
30 PLAN IS CONSISTENT WITH THE COMPREHENSIVE PLAN.

31 (D) IF A LOCAL JURISDICTION RECEIVES TRANSIT SERVICES THAT ARE
32 WHOLLY OR PARTLY FUNDED BY THE STATE, THE COMPREHENSIVE PLAN AND
33 APPROPRIATE SUPPORTING ELEMENTS, DOCUMENTS, AND MAPS MAY INCLUDE A
34 TRANSIT-ORIENTED DISTRICT PLAN FOR A TRANSIT-ORIENTED DISTRICT THAT
35 CONSISTS OF:

1 (1) A NEIGHBORHOOD CENTERED AROUND A TRANSIT STATION
2 PLANNED AND DESIGNED SO THAT RESIDENTS, EMPLOYEES, EMPLOYERS,
3 SHOPPERS, AND OTHERS FIND IT CONVENIENT AND ATTRACTIVE TO USE TRANSIT
4 SERVICES;

5 (2) A MIX OF RESIDENTIAL HOUSING UNITS, INCLUDING APARTMENTS,
6 WITHIN ONE-FOURTH MILE OF THE EXTERIOR BOUNDARY OF THE LAND ON WHICH
7 THE TRANSIT STATION IS LOCATED;

8 (3) OTHER LAND USES, INCLUDING RETAIL, BUSINESSES, AND CIVIC
9 USES, INCLUDING, BUT NOT LIMITED TO DAY CARE CENTERS, SCHOOLS, POST
10 OFFICES, AND LIBRARIES NEAR THE TRANSIT STATION;

11 (4) PEDESTRIAN AND BICYCLE ACCESS TO THE TRANSIT STATION, WITH
12 ATTRACTIVELY DESIGNED AND LANDSCAPED PATHWAYS;

13 (5) A RAIL TRANSIT SYSTEM THAT SHOULD ENCOURAGE AND
14 FACILITATE INTERMODAL SERVICE, AND ACCESS BY MODES OTHER THAN SINGLE
15 OCCUPANT VEHICLES;

16 (6) DEMONSTRABLE PUBLIC BENEFITS BEYOND THE INCREASE IN
17 TRANSIT USAGE, INCLUDING:

18 1. RELIEF OF TRAFFIC CONGESTION;

19 2. IMPROVED AIR QUALITY;

20 3. INCREASED TRANSIT REVENUE YIELDS;

21 4. INCREASED STOCK OF AFFORDABLE HOUSING;

22 5. REDEVELOPMENT OF DEPRESSED AND MARGINAL
23 NEIGHBORHOODS;

24 6. TRAVEL OPTIONS FOR TRANSIT-DEPENDENT GROUPS;

25 7. PROMOTION OF INFILL DEVELOPMENT AND
26 CONSERVATION OR PRESERVATION OF HISTORICAL AND NATURAL RESOURCES;

27 8. PROMOTION OF A SAFE, CLEAN, ATTRACTIVE, AND
28 PEDESTRIAN-FRIENDLY ENVIRONMENT AROUND TRANSIT STATIONS;

29 9. REDUCTION OF THE NEED FOR ADDITIONAL TRAVEL BY
30 PROVIDING FOR THE SALE OF GOODS AND SERVICES AT TRANSIT STATIONS;

31 10. PROMOTION OF JOB OPPORTUNITIES;

32 11. IMPROVED COST-EFFECTIVENESS THROUGH THE USE OF
33 THE EXISTING INFRASTRUCTURE;

34 12. INCREASED TAX BASE; AND

1 13. REDUCTION IN ENERGY CONSUMPTION;

2 (7) SITES WHERE A DENSITY BONUS OF AT LEAST 25% MAY BE GRANTED
3 UNDER SPECIFIED PERFORMANCE STANDARDS; AND

4 (8) OTHER PROVISIONS THAT MAY BE NECESSARY FOR THE
5 SUCCESSFUL IMPLEMENTATION OF THE TRANSIT-ORIENTED DEVELOPMENT
6 DISTRICT.

7 (E) WHEN ESTABLISHING A TRANSIT-ORIENTED DEVELOPMENT DISTRICT
8 AND PREPARING A PLAN UNDER THIS ARTICLE, A LOCAL JURISDICTION SHALL
9 DEMONSTRATE HOW CURRENT PROCESSES, CODES, ORDINANCES, DEVELOPMENT
10 FEES, OR FEE SCHEDULES MAY FOSTER OR INHIBIT DEVELOPMENT WITHIN THE
11 TRANSIT-ORIENTED DEVELOPMENT DISTRICT AND PLAN.

12 (F) (1) THE DEPARTMENT OF TRANSPORTATION SHALL REVIEW ALL
13 TRANSIT-ORIENTED DEVELOPMENT DISTRICT PLANS.

14 (2) THE DEPARTMENT OF TRANSPORTATION AND THE LOCAL
15 JURISDICTION MAY DEVELOP PROGRAMS FOR TRANSIT SERVICE TO AND IN THE
16 TRANSIT-ORIENTED DEVELOPMENT DISTRICT TO ENSURE SUCCESSFUL
17 IMPLEMENTATION OF THE TRANSIT-ORIENTED DEVELOPMENT DISTRICT PLAN.

18 (G) A LOCAL JURISDICTION MAY USE ANY TECHNICAL OR FINANCIAL
19 ASSISTANCE THAT THE DEPARTMENT OF TRANSPORTATION MAY PROVIDE WHEN
20 ESTABLISHING A TRANSIT-ORIENTED DEVELOPMENT DISTRICT AND PREPARING A
21 PLAN UNDER THIS ARTICLE.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 July 1, 2001.